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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,671	06/27/2001	Joseph F. Cihula	PW 028 018 P-11673	3953

7590 04/05/2005

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EXAMINER
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TRAN, ELLEN C

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/892,671

Applicant(s)

CIHULA, JOSEPH F.

Examiner

Ellen C Tran

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. This action is responsive to communication: filed on 27 June 2001.
2. Claims 1-29 are currently pending in this application. Claims 1, 11, and 20 are independent claims.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language

4. **Claims 1-27**, are rejected under 35 U.S.C. 102(e) as being anticipated by Jardin U.S.

Patent No. 6,681,327 (hereinafter '327).

As to independent claim 1, A method of increasing realized secure sockets layer encryption and decryption connections comprising: monitoring at least one parameter of a server that is known to affect an ability of a device to process secure sockets layer connections” is taught in ‘327 col. 3, line 50 through col. 4, line 20;

“calculating a secure sockets layer capacity value for the server” is shown in ‘327 col. 6, lines 44-58 (i.e. “calculating ... capacity ... for server” same as “adjusted to accommodate various server configurations”);

“calculating a load value for a secure sockets layer device” is disclosed in ‘327 col. 6, lines 12-31 (“calculating” same as “broker may adjust (i.e. increase or decrease)” / “load value” same as “traffic” / “device” same as “buffer”);

“calculating a secure sockets layer connection threshold for the server; setting the secure sockets layer connection threshold for the server” is taught in ‘327 col. 6, lines 51-57;

“applying the secure sockets layer connection threshold to the secure sockets layer device to be used in determining a number of connections for processing by the secure sockets layer device for the server; and recalculating the secure sockets layer connection threshold value for the secure sockets layer device” is shown in ‘327 col. 6, lines 21-31.

As to dependent claim 2, “wherein the server parameter is CPU utilization” is disclosed in ‘327 col. 8, lines 42-52.

As to dependent claim 3, “wherein the server parameter is available memory” is taught in ‘327 col. 6, lines 12-31.

As to dependent claim 4, “wherein the secure sockets layer capacity value of the server represents a capability of the server to process secure sockets layer connections” is shown in ‘327 col. 8, lines 42-67.

As to dependent claim 5, “wherein at least one of the secure sockets layer capacity value and the load value is a direct value” is disclosed in ‘327 col. 6, lines 15-32.

As to dependent claim 6, “wherein at least one of the secure sockets layer capacity value and the load value is a computation of values” is taught in ‘327 col. 6, lines 15-32.

As to dependent claim 7, “wherein the secure sockets layer capacity value= $\max [(\# \text{ processors} \times \text{processor speed}/100) \times (0.7\text{-CPU utilization}), 0]$ ” is shown in ‘327 col. 8, line 42 through col. 9, line 10.

As to dependent claim 8, “wherein the secure sockets layer connection threshold for the secure sockets layer device is a function of both device load and server capacity” is disclosed in ‘327 col. 6, lines 15-32.

As to dependent claim 9, “wherein device load and server capacity are variable values” is taught in ‘327 col. 6, lines 15-32.

As to dependent claim 10, wherein the connection threshold= $10 \times \text{server capacity} \times \text{device CPU utilization}$ , represents the number of secure sockets layer connections that the secure sockets layer device allows a server to process” is shown in ‘327 col. 8, line 42 through col. 9, line 10.

As to independent claim 11, this claim is directed to a computer readable medium of the method of claim 1; therefore it is rejected along similar rationale.

As dependent claims 12- 19, these claims contain substantially similar subject matter as claims 2-10; therefore they are rejected along similar rationale.

As to independent claim 20, this claim is directed to the system of the method of claim 1; therefore it is rejected along similar rationale.

As dependent claims 21-29, these claims contain substantially similar subject matter as claims 2-10; therefore they are rejected along similar rationale.


*Conclusion*

5 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is (571) 272-3842. The examiner can normally be reached from 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ellen Tran  
Patent Examiner  
Technology Center 2134  
18 March 2005



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100